IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

WP(C).No. 31246 of 2007(T)

PETITIONER:

VIJAYAKUMARAN NAIR.P,
S/O RAGHAVAN NAIR, RETD.
AS PROCESS SERVER FROM
THE ADDL. DISTRICT COURT,
MAVELIKKARA.

BY ADV. SRI.M.V.THAMBAN

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY TO THE GOVT.,
GOVT. SECRETARIAT,
THIRUVANANTHAPURAM.

2. DISTRICT AND SESSIONS JUDGE,
ALAPPUZHA.

3. THE CHIEF MANAGER,
STATE BANK OF TRAVANCORE,
MAVELIKKARA(MAIN BRANCH),
MAVELIKKARA P.O., ALAPPUZHA DIST.

4. SUB TREASURY OFFICER,
KARTHIKAPPALLY,
ALAPPUZHA DISTRICT.

5. N.C.KUNJUKUNJU,
S/O KUNJUCHERUKAN,
KAPPIMALAYIL HOUSE,
ANGADICKAL SOUTH P.O.,
CHENGANNOOR.

6. SMT. MANI,
W/O N.C.KUNJUKUNJU,
KAPPIMALAYIL HOUSE,
ANGADICKAL SOUTH P.O.,
CHENGANNOOR.

R1 TO R4 BY GOVERNMENT PLEADER SRI.BEJOY CHANDRAN
R3 BY ADV. SRI.SATHISH NINAN
SRI.SANTHOSH MATHEW

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J.

W.P.(C).No.31246 of 2007 T

Dated this the 14th day of November, 2007.

JUDGMENT

Petitioner, who retired from service as a process server on 31.5.2005, is aggrieved by the fact that the Death cum Retirement Gratuity due to him has not been disbursed. Apparently, the delay in disbursal of the same is due to the fact that the petitioner had stood as a surety for a loan availed by the 5th respondent from the 3rd respondent bank. The principal debtor defaulted repayment of the same. Therefore, the bank proceeded to recover the amount from the sureties as well. It seems that the petitioner had given an undertaking at the time when the loan was availed, to pay the amount, if necessary, by deduction from his salary. The same has been produced by the 3rd respondent as Ext.R3(d) along with the counter affidavit filed by it. Certain recovery of the amounts was effected as well. Apparently, the DCRG is withheld taking note of the fact that there are certain amounts due from the principal debtor, 5th respondent. The bank has filed O.S.No.355/05 before the Munsiff's court, Mavelikkara

against the principal debtor and the sureties, including the petitioner. The suit is pending.

2. In the statement filed on behalf of the 3rd respondent, a reference is made to the above aspects. On a perusal of Annexure {Ext.} R3(d), it is found that an undertaking was given by the petitioner for deduction from his monthly salary in the event of default committed by the principal debtor. The said undertaking obviously would be enforceable only from the salary due to the petitioner. The moment the petitioner retires from the service, he becomes a pensioner and the retirement benefits due to him will not be available to absorb any further claim from the bank, on the strength of Annexure R3(d). At any rate, the suit filed by the bank is still pending and it is unnecessary for me to finally pronounce on this aspect.

3. The DCRG due to the petitioner will, therefore, have to be disbursed, subject to any liability that might have been incurred by the petitioner, other than the one incurred by the 5th respondent with the bank.

In the circumstances, the writ petition is disposed of directing the 2nd respondent to take appropriate decision to quantify the liability, if any, incurred by the petitioner within three months from the date of receipt of a copy of this judgment, which the petitioner shall produce before the 2nd respondent. Once the proceedings are finalized, the amount shall be disbursed to the petitioner. The claim for interest made by the petitioner for delayed payment is left open.

Sd/-
(V.GIRI)
JUDGE

sk/

//true copy//

P.S. To Judge